

# Cut That Out!



## Redaction and Expungement How-to's



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Records Service**

**Rosemary Cundiff  
Kendra Yates  
Avalon Snell**

April 12, 2022

# Redaction



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# Redaction is called segregation

Some records must be  
segregated before they can  
be disclosed.



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## Utah Code 63G-2-308

.. If a governmental entity receives a request for access to a record that contains both information that the requester is entitled to inspect and information that the requester is not entitled to inspect... and if the information the requester is entitled to inspect is intelligible, the governmental entity:

(a) shall... allow access to the information in the record that the requester is entitled to inspect...

(b) may deny access to information in the record if the information is exempt from disclosure to the requester, issuing a notice of denial...

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# Intelligible vs. Unintelligible



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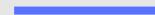
**Records with  
more than one  
subject must  
be segregated.**



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## Utah Code 63G-2-202(3)

If there is more than one subject of a private or controlled record, the portion of the record that pertains to another subject shall be segregated from the portion that the requester is entitled to inspect.



# Fees may be charged for segregation.



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## Utah Code

### 63G-2-203(1)(2)

A governmental entity may charge a reasonable fee to cover the... actual cost of providing a record...

...actual costs under this section may include...

(a) the cost of staff time for compiling the record into an organization or media to meet the person's request

(b) other direct administrative costs for complying with a request;...

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# Segregation can be an extraordinary circumstance.



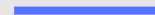
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## Utah Code 63G-2-204(6)

The following circumstances constitute “extraordinary circumstances: that allow a governmental entity to delay approval or denial by an additional period of time...

(g) segregations ... requires extensive editing;

(h) segregating... requires computer programming.



# Additional time is allowed for extraordinary circumstances.



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## Utah Code 63G-2-204(7)

If one of the extraordinary circumstances ... precludes approval or denial within the specified time...the following time limits apply:

(e) if (extensive editing is required) .. Fulfill the request within 15 business days after the response time specified for the original request has expired;

(f) If (computer programming is required) complete programming and disclose... as soon as reasonably possible.

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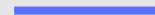
# Notice of Denial may be provided for redacted information



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## Utah Code 63G-2-205(1)

If the governmental entity denies the request in whole or part, it shall provide a notice of denial to the requester....



# Records not readily segregated unavailable for in-office inspection.



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## Utah Code

### 63G-2-201(1)(b)(iii)

The right (to inspect a public record free of charge during normal business hours) does not apply with respect to a record

(a) that is accessible only by a computer.. owned ...by the governmental entity;

(b) that is part of an electronic file that also contains a record that is private, controlled, or protected; and

(c) that the governmental entity cannot readily segregated ....

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# Implementation Dilemmas

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- Record Sharing
- Records subject to another law
- Video footage: software is necessary
- What remains seems Unintelligible
- Attorney needs to do the redacting?



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# Technical Processes

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## Utah Department of Corrections accused of intentional records cover-up

by Wendy Halloran, KUTV | Thursday, March 17th 2022



A 2News Investigation found the Utah Department of Corrections is going out of its way to make sure you don't know about practices inside Utah's Adult Probation and Parole system. (KUTV)



### WHAT ARE THEY TRYING TO HIDE?

A 2News Investigation found the Utah Department of Corrections is going out of its way to make sure you don't know about practices inside Utah's Adult Probation and Parole system. Many of our requests for information have been denied. We put in a public records request for offender supervision histories on five

March 17, 2022

Utah Department of Corrections

- Heavily redacted supervision notes for AP&P offenders

<https://kutv.com/news/2news-investigates/2news-investigates-utah-department-of-corrections-redactions>



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documents but began to wonder what UDC was trying to hide. While trying to copy and paste one offender supervision history into an email to show 2News management, the redactions went away. What we found was very revealing about the supervision of these



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- What they redacted (Why that was wrong)
- Content of the records (What they were trying to hide)



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# Choose Your Method

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# Test Your Method

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documents but began to wonder what UDC was trying to hide. While trying to copy and paste one offender supervision history into an email to show 2News management, the redactions went away. What we found was very revealing about the supervision of these

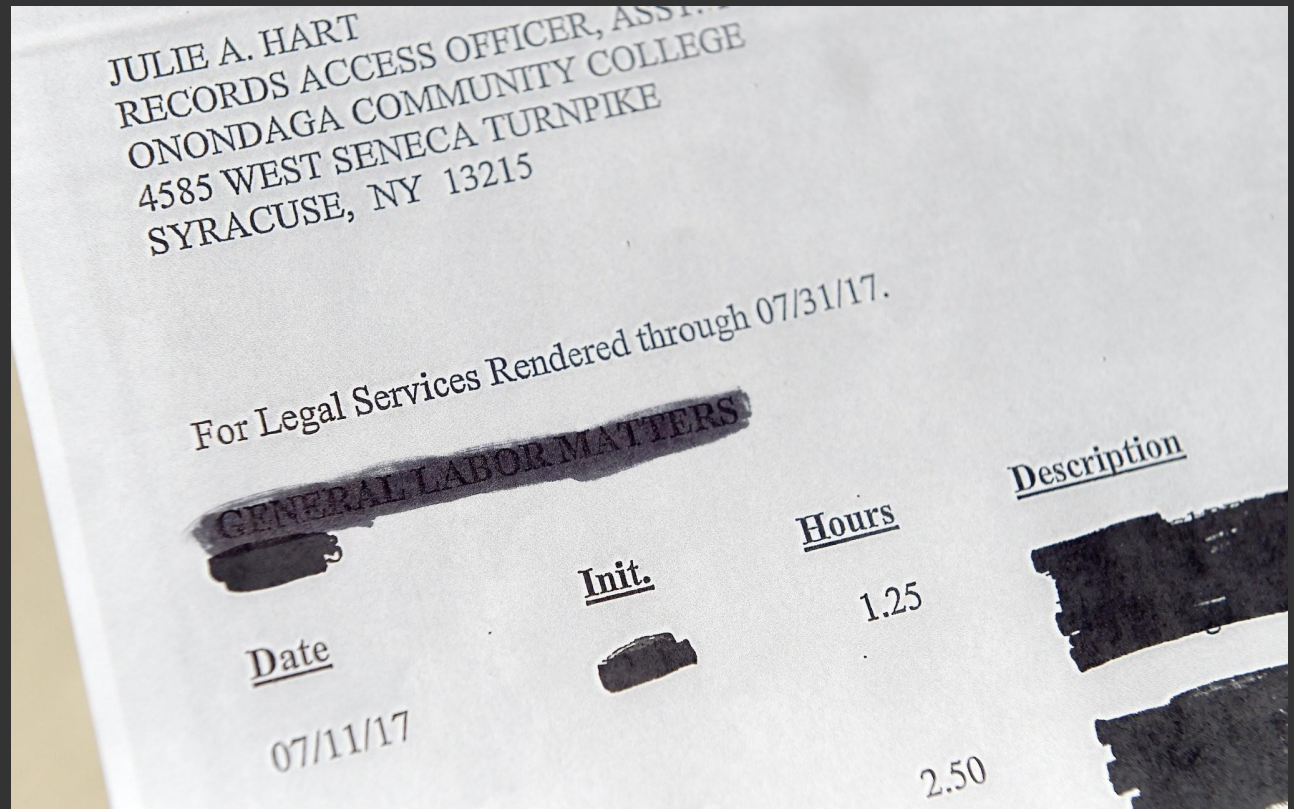


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# Technical Processes: Paper

Black marker by hand

- Verify that it's not discernable under *any* light
- Making a photocopy can make it less human discernable



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# Technical Processes: Electronic

## Auto-Redaction software

- Unstructured data, like PDFs
- Uses Optical Character Recognition (OCR) and Artificial Intelligence tools
- Initial setup takes time, but then does a lot of documents quickly
- Identifies info based on form field location or on content and context

Student Name: [REDACTED] DOB: [REDACTED]  
Parent/Guardian: [REDACTED] SSN: [REDACTED]  
Address: [REDACTED] Gender: M  
City/State/Zip: Napa, CA 94559 Phone: [REDACTED]

Kolbe Academy  
High School Transcript  
2501 Oak St. Napa, CA 94559 (707)255-6499

| Grade 9   | Year: 2008 - 2009 | G1 | G2 | S1 | G3 | G4 | S2 | Cr | Grade 10                       | Year: 2009 - 2010 | G1 | G2 | S3 | G4 | S4 | Cr |
|---|-------------------|----|----|----|----|----|----|----|--------------------------------|-------------------|----|----|----|----|----|----|
| Intro to Sacred Scripture                           | A                 | A  | A  | A  | A  | A  | A  | 10 | Intro to Sacred Scripture      | A                 | A  | A  | A  | A  | A  | 10 |
| English: Composition/Rhetoric                       | A                 | A  | A  | A  | A  | A  | A  | 10 | English: Composition/Rhetoric  | A                 | A  | A  | A  | A  | A  | 10 |
| Ancient Greek Literature                            | A                 | B+ | A  | A  | A  | A  | A  | 10 | Ancient Roman Literature       | A                 | A  | A  | A  | A  | A  | 10 |
| H. World Hist I: Ancient Greece                     | A                 | B+ | A  | A  | A  | A  | A  | 10 | K. World Hist II: Ancient Rome | A                 | A  | A  | A  | A  | A  | 10 |
| K. Algebra I  | A                 | A  | A  | A  | A  | A  | A  | 10 | H. Geometry                    | A                 | A  | A  | A  | A  | A  | 10 |
| H. Biology with Lab                                 | A                 | A  | A  | A  | A  | A  | A  | 10 | C. Chemistry 101               | A                 | A  | A  | A  | A  | A  | 10 |
| Latin I   | A                 | B  | B+ | A  | A  | A  | A  | 10 | Latin II                       | B+                | B  | B+ | A  | A  | A  | 10 |
| Health  | F                 | F  | F  | F  | F  | F  | F  | 5  | Music                          | F                 | F  | F  | F  | F  | F  | 5  |
| Music   | F                 | F  | F  | F  | F  | F  | F  | 5  | Art                            | F                 | F  | F  | F  | F  | F  | 5  |
| Art   | F                 | F  | F  | F  | F  | F  | F  | 5  | Physical Education             | F                 | F  | F  | F  | F  | F  | 5  |
| Physical Education                                  | F                 | F  | F  | F  | F  | F  | F  | 5  |                                |                   |    |    |    |    |    |    |
| S1 GPA: 3.81 S2 GPA: 3.94 S3 GPA: 3.91 S4 GPA: 3.95 |                   |    |    |    |    |    |    |    | S5 GPA: 3.91 S6 GPA: 3.95      |                   |    |    |    |    |    |    |

| Grade 11                  | Year: 2010 - 2011 | G1 | G2 | S5 | G3 | G4 | S6 | Cr | Grade 12                  | Year: 2011 - 2012 | G1 | G2 | S7 | G3 | G4 | S8 | Cr |
|---------------------------|-------------------|----|----|----|----|----|----|----|---------------------------|-------------------|----|----|----|----|----|----|----|
|                           |                   |    |    |    |    |    |    |    |                           |                   |    |    |    |    |    |    |    |
| S5 GPA: 0.00 S6 GPA: 0.00 |                   |    |    |    |    |    |    |    | S7 GPA: 0.00 S8 GPA: 0.00 |                   |    |    |    |    |    |    |    |

The transcript of credits, courses, the course of study and grades assigned by parents. GPA is not weighted.

| Grade | GPA | Percent | Grade | GPA | Percent |
|-------|-----|---------|-------|-----|---------|
| A+    | 4.0 | 98-100  | C-    | 2.0 | 77-79   |
| A     | 4.0 | 95-97   | C     | 1.7 | 74-76   |
| A-    | 3.7 | 92-94   | D+    | 1.3 | 71-73   |
| B+    | 3.3 | 89-91   | D     | 1.0 | 68-70   |
| B     | 3.0 | 86-88   | D-    | 0.7 | 65-67   |
| B-    | 2.7 | 83-85   | F     | 0.0 | 0-64    |
| C+    | 2.3 | 80-82   | F     | 0.0 | 0-64    |

Standardized Test Scores

| SAT    | Cr  | Ma  | Wr  | MC | Essay |
|--------|-----|-----|-----|----|-------|
| May 08 | 720 | 620 | 680 | 78 | 09    |

ACT

| En       | Ma | Re | So | Composite | Wr | Essay |
|----------|----|----|----|-----------|----|-------|
| April 08 | 31 | 28 | 30 | 28        | 29 |       |

AP

| AP                 | Score |
|--------------------|-------|
| Oct 08: Math 1     | 420   |
| Oct 08: Literature | 750   |

School Office's Signature: [REDACTED] Date: Dec 21, 2020  
(Unofficial unless signed and sealed)

Fully accredited by NACIS  
National Association of Private Catholic and Independent Schools

| Course Credits          | Needs |
|-------------------------|-------|
| Theology                | 40    |
| English & Literature    | 50    |
| History                 | 30    |
| World                   | 10    |
| American                | 10    |
| Math                    | 30    |
| Algebra 1               | 10    |
| Geometry for ap/col     | 10    |
| Algebra 2               | 10    |
| Science                 | 30    |
| Biology                 | 10    |
| Chemistry               | 10    |
| Physical Science        | 10    |
| Lab (Bio/Chem/Physics)  | 2     |
| Foreign Language        | 30    |
| 2 yrs of Same Language  | 20    |
| 3rd yr New or Same Lang | 10    |
| Academic Electives      | 20    |
| Visual Arts             | 10    |
| PE                      | 20    |
| Total                   | 240   |

| Cumulative GPA:             | 3.91             |
|-----------------------------|------------------|
| Total Credits:              | 175.00           |
| Attendance Rate:            |                  |
| Attendance Record Received: | x                |
| Courses Taken:              | x                |
| Reviewed by:                | Academic Advisor |
| Comments:                   |                  |

Note that comments are deleted prior to sending out official transcript requests.



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- Unstructured data: PDFs
- One document at a time
- Time-consuming, but inexpensive (if only occasional redactions needed)

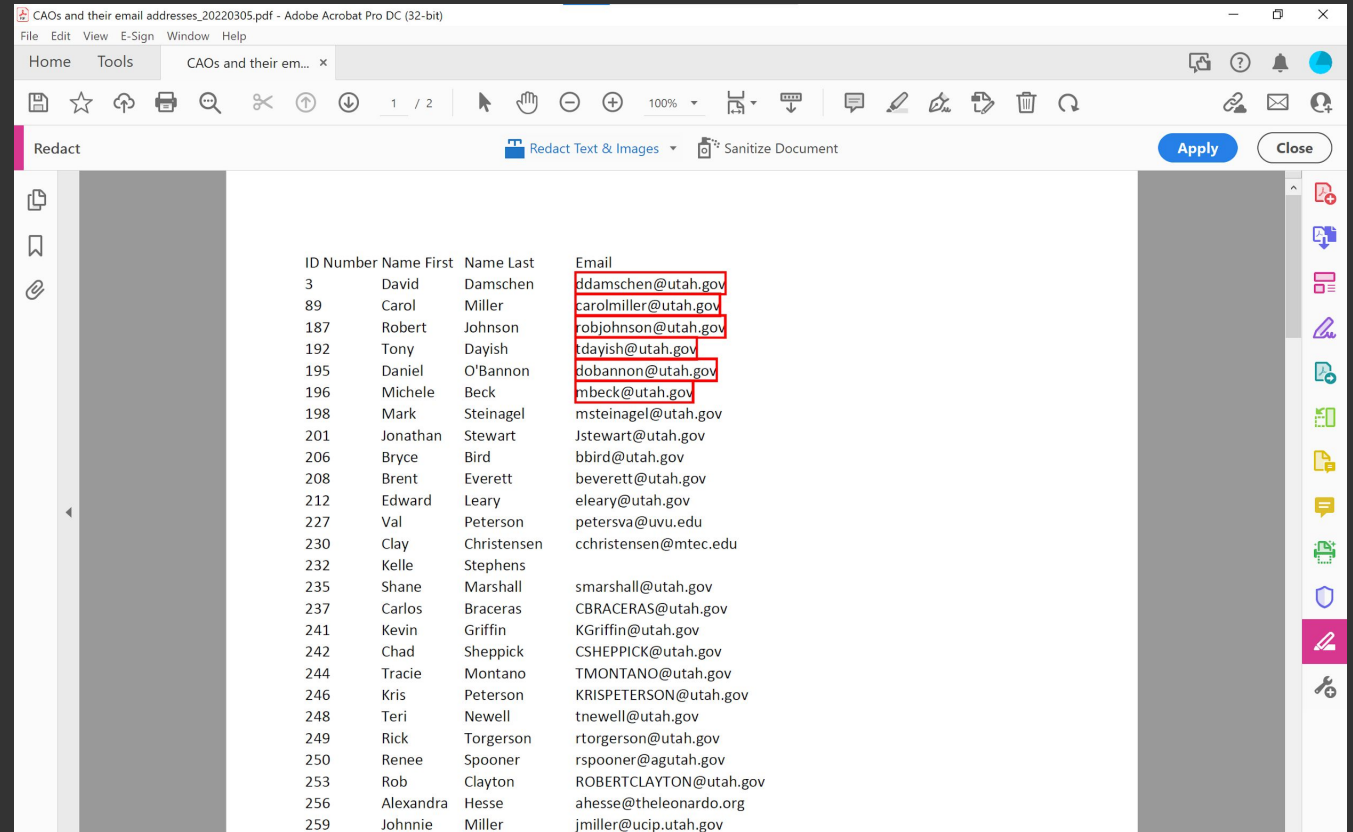


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# PDF-Editing Software: Example

- Find Redaction tool
- Highlight field to redact
- Select “Apply”

OR

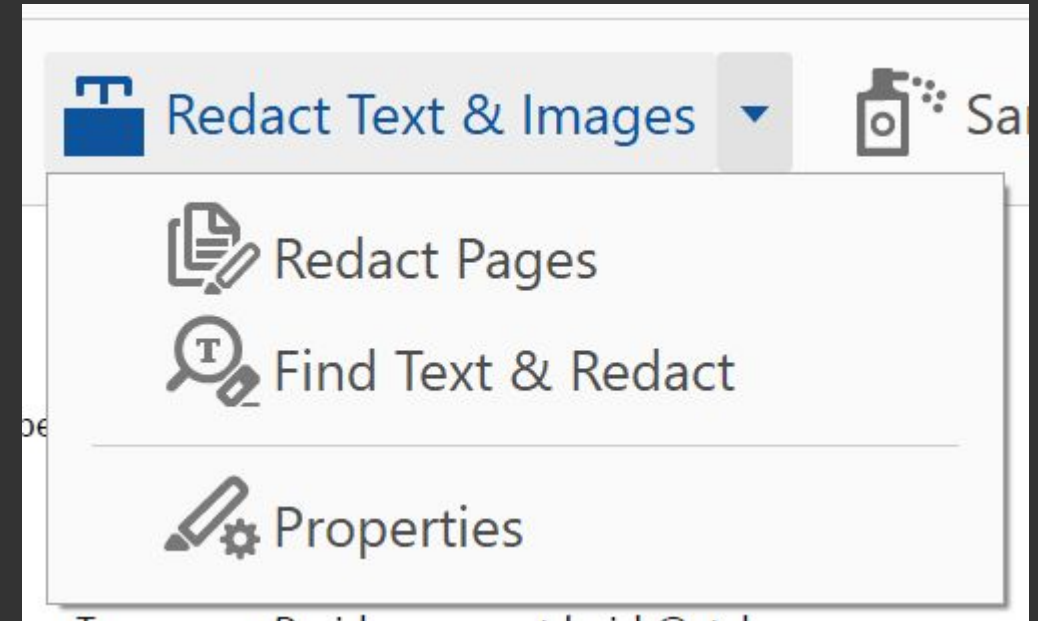


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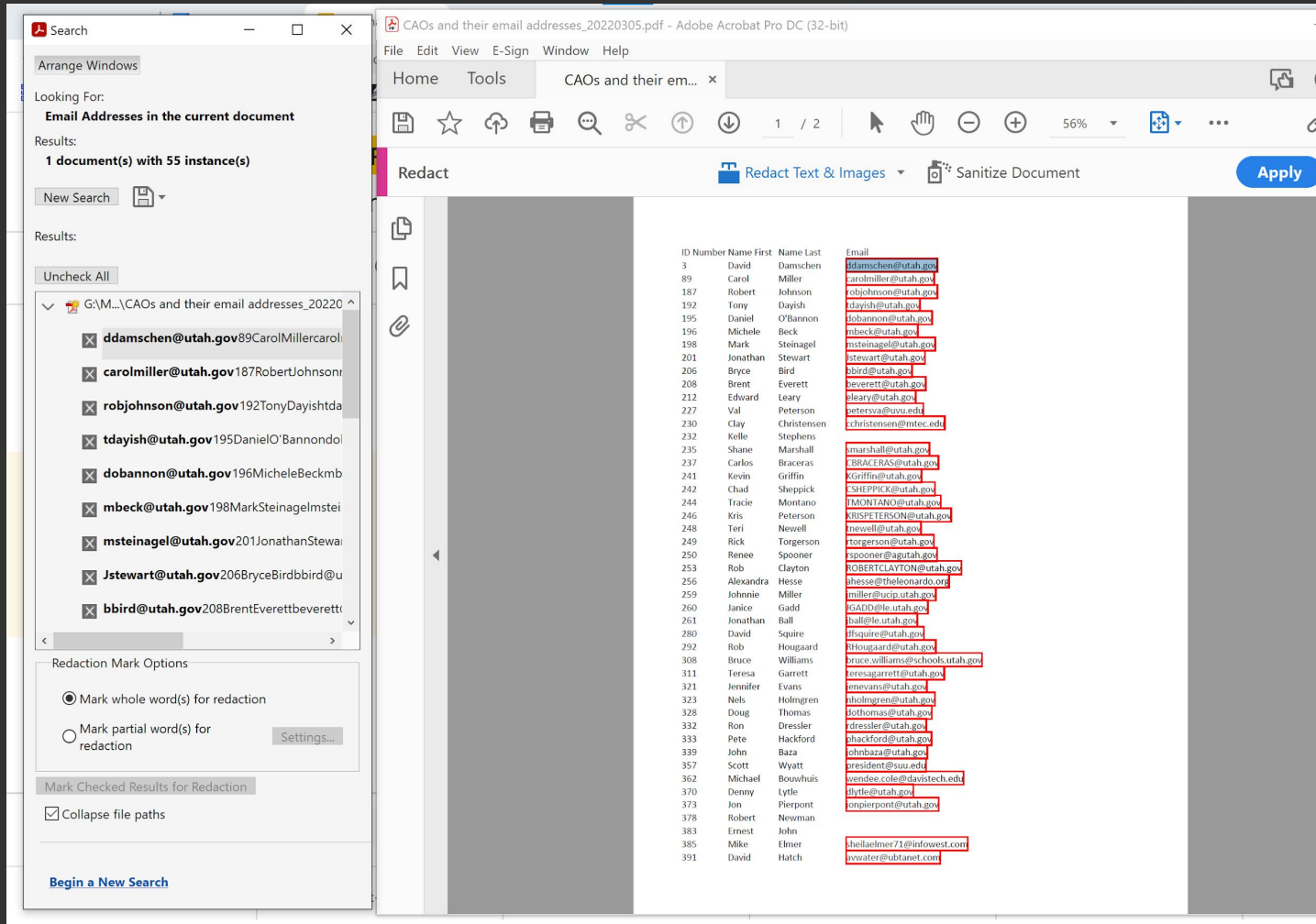
# PDF-Editing Software: Example

- Select “Redact Text & Images”
- Choose “Find Text & Redact”
  - Patterns
    - Email addresses



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# PDF-Editing Software: Example



- Check All
- Review items identified
- Select “Mark Checked Results for Redaction”
- Select “Apply”



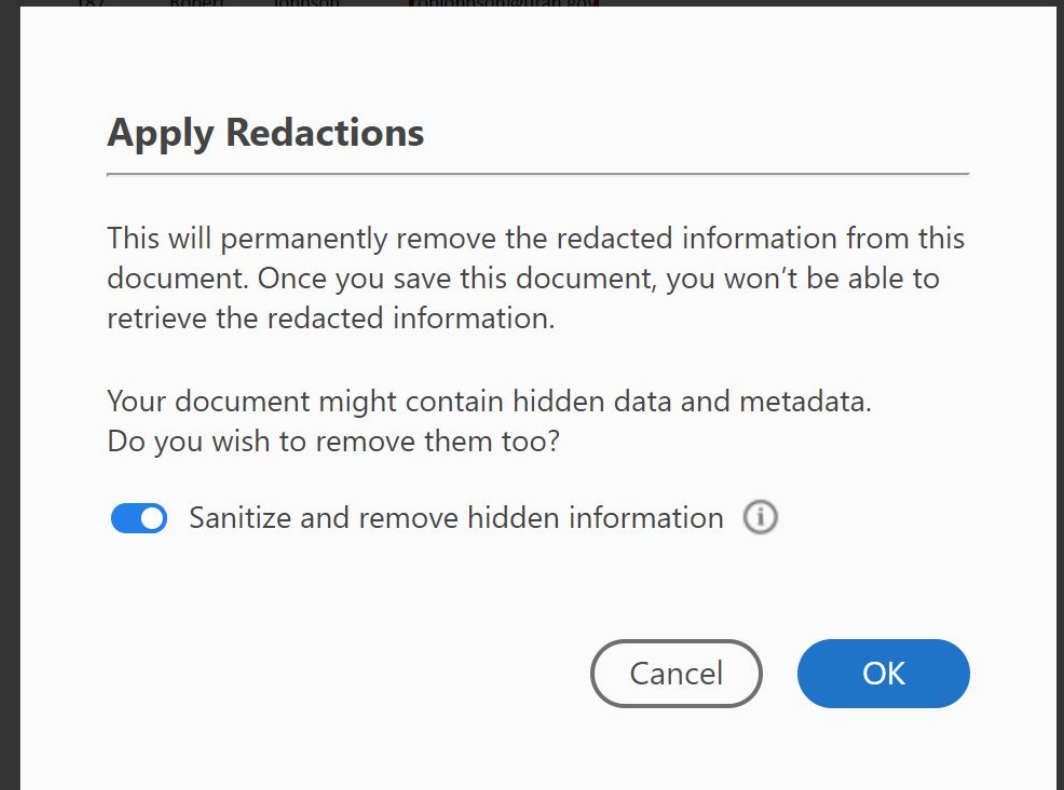
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# “Hidden Information,” aka Metadata

Option to remove “hidden information,” aka Metadata

- Redacted record should have metadata redacted as well

System automatically creates a new file for the redacted version



**Apply Redactions**

This will permanently remove the redacted information from this document. Once you save this document, you won't be able to retrieve the redacted information.

Your document might contain hidden data and metadata. Do you wish to remove them too?

☒ Sanitize and remove hidden information ⓘ

Cancel OK



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# Verify redactions can't be reversed

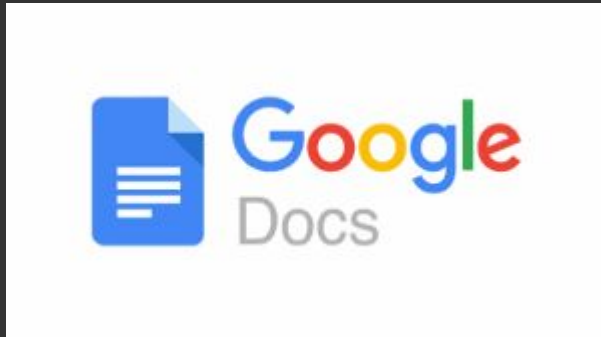
| ID Number | Name First | Name Last   | Email |
|-----------|------------|-------------|-------|
| 3         | David      | Damschen    |       |
| 89        | Carol      | Miller      |       |
| 187       | Robert     | Johnson     |       |
| 192       | Tony       | Dayish      |       |
| 195       | Daniel     | O'Bannon    |       |
| 196       | Michele    | Beck        |       |
| 198       | Mark       | Steinagel   |       |
| 201       | Jonathan   | Stewart     |       |
| 206       | Bryce      | Bird        |       |
| 208       | Brent      | Everett     |       |
| 212       | Edward     | Leary       |       |
| 227       | Val        | Peterson    |       |
| 230       | Clay       | Christensen |       |
| 232       | Kelle      | Stephens    |       |
| 235       | Shane      | Marshall    |       |
| 237       | Carlos     | Braceras    |       |
| 241       | Kevin      | Griffin     |       |
| 242       | Chad       | Sheppick    |       |
| 244       | Tracie     | Montano     |       |
| 246       | Kris       | Peterson    |       |
| 248       | Teri       | Newell      |       |
| 249       | Rick       | Torgerson   |       |
| 250       | Renee      | Spooner     |       |
| 253       | Rob        | Clayton     |       |
| 256       | Alexandra  | Hesse       |       |
| 259       | Johnnie    | Miller      |       |
| 260       | Janice     | Gadd        |       |
| 261       | Jonathan   | Ball        |       |
| 280       | David      | Squire      |       |
| 292       | Rob        | Hougaard    |       |
| 308       | Bruce      | Williams    |       |
| 311       | Teresa     | Garrett     |       |
| 321       | Jennifer   | Evans       |       |
| 323       | Nels       | Holmgren    |       |
| 328       | Doug       | Thomas      |       |
| 332       | Ron        | Dressler    |       |
| 333       | Pete       | Hackford    |       |
| 339       | John       | Baza        |       |
| 357       | Scott      | Wyatt       |       |
| 362       | Michael    | Bouwhuis    |       |
| 370       | Denny      | Lytle       |       |
| 373       | Jon        | Pierpont    |       |
| 378       | Robert     | Newman      |       |
| 383       | Ernest     | John        |       |
| 385       | Mike       | Elmer       |       |
| 391       | David      | Hatch       |       |



document. Once you save this document, you won't be able to retrieve the redacted information.



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# Microsoft Word Docx and Google Docs

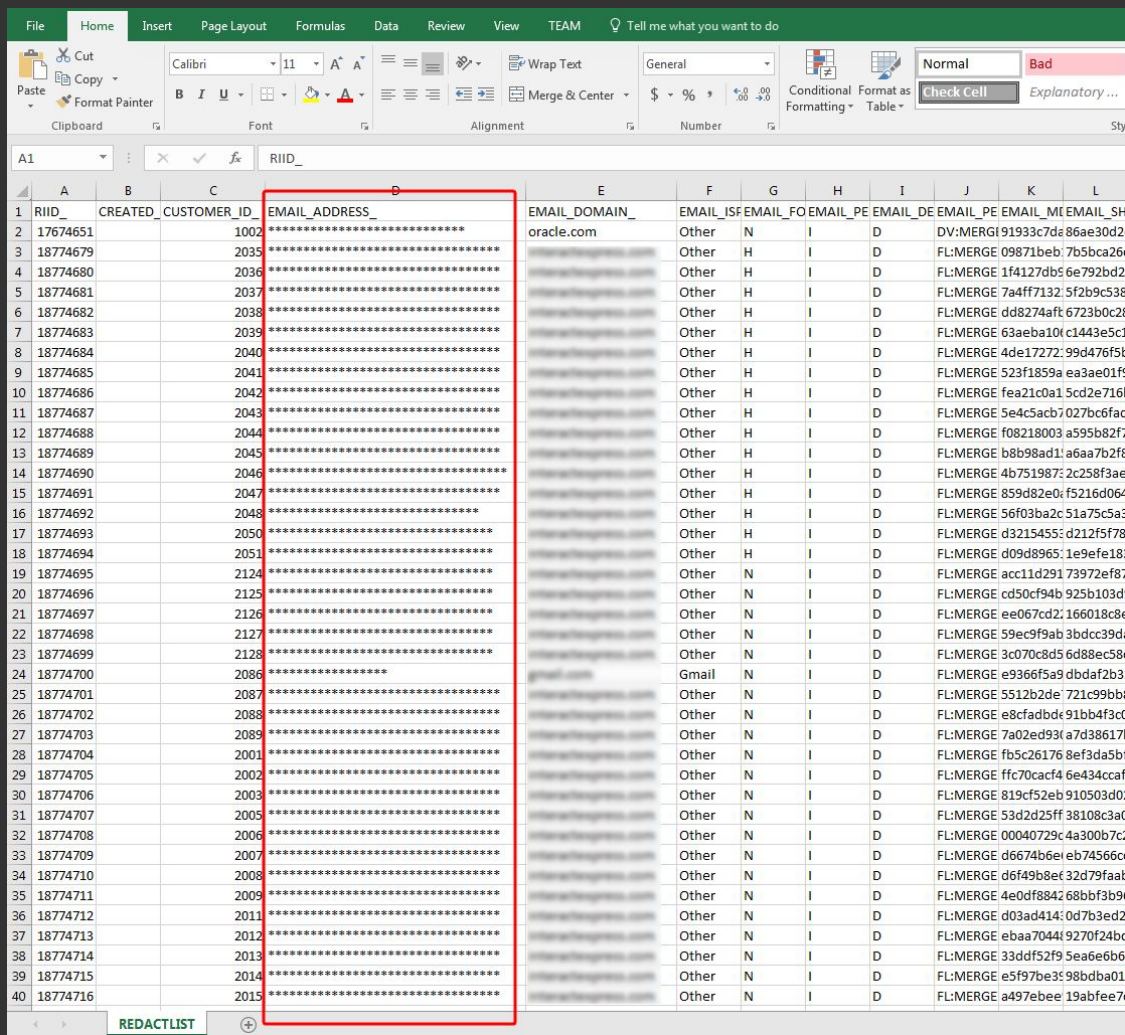


|   |   |
|---|---|
|  <p>DECODE</p>                           |  <p>DocSecrets<br/>Encrypt your secrets<br/>My password is <del>XXXXXXXXXX</del></p> |
| <p>Decode<br/><a href="#">msyamlal</a><br/>This add-on enables you to encrypt text -- such as passwords or sensitive...</p> | <p>DocSecrets<br/><a href="#">jnovate</a><br/>Encrypt and hide sensitive information, share censored documents or collaborate...</p>                                    |
| <p>★ 2.7 • ⬇ 809</p>  | <p>★ 3.1 • ⬇ 89,608</p>   |



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# Data Redaction



|    | A        | B        | C            | D              | E             | F         | G        | H        | I        | J                             | K        | L |
|----|----------|----------|--------------|----------------|---------------|-----------|----------|----------|----------|-------------------------------|----------|---|
|    | RIID_    | CREATED_ | CUSTOMER_ID_ | EMAIL_ADDRESS_ | EMAIL_DOMAIN_ | EMAIL_ISF | EMAIL_FO | EMAIL_PE | EMAIL_DE | EMAIL_ME                      | EMAIL_SH |   |
| 1  | 18774651 |          | 1002         | *****          | oracle.com    | Other     | N        | I        | D        | DV:MERGE 9193c7da 86ae30d2    |          |   |
| 2  | 18774679 |          | 2035         | *****          |               | Other     | H        | I        | D        | FL:MERGE 09871beb: 7b5bca26   |          |   |
| 3  | 18774680 |          | 2036         | *****          |               | Other     | H        | I        | D        | FL:MERGE 1f4127db5 6e792bd2   |          |   |
| 4  | 18774681 |          | 2037         | *****          |               | Other     | H        | I        | D        | FL:MERGE 7a4ff7132: 5f2b9c538 |          |   |
| 5  | 18774682 |          | 2038         | *****          |               | Other     | H        | I        | D        | FL:MERGE dd8274aft 6723b0c28  |          |   |
| 6  | 18774683 |          | 2039         | *****          |               | Other     | H        | I        | D        | FL:MERGE 63aeba10a c1443e5c1  |          |   |
| 7  | 18774684 |          | 2040         | *****          |               | Other     | H        | I        | D        | FL:MERGE 4de17272: 99d476f5b  |          |   |
| 8  | 18774685 |          | 2041         | *****          |               | Other     | H        | I        | D        | FL:MERGE 523f1859a ea3ae01f9  |          |   |
| 9  | 18774686 |          | 2042         | *****          |               | Other     | H        | I        | D        | FL:MERGE fea21c0a1 5cd2e716f  |          |   |
| 10 | 18774687 |          | 2043         | *****          |               | Other     | H        | I        | D        | FL:MERGE 5e4c5acb7 027bc6fad  |          |   |
| 11 | 18774688 |          | 2044         | *****          |               | Other     | H        | I        | D        | FL:MERGE f08218003 a595b82f7  |          |   |
| 12 | 18774689 |          | 2045         | *****          |               | Other     | H        | I        | D        | FL:MERGE b8b98ad1: a6aa7b2f8  |          |   |
| 13 | 18774690 |          | 2046         | *****          |               | Other     | H        | I        | D        | FL:MERGE 4b751987: 2c258f3ae  |          |   |
| 14 | 18774691 |          | 2047         | *****          |               | Other     | H        | I        | D        | FL:MERGE 859d82e0: f5216d064  |          |   |
| 15 | 18774692 |          | 2048         | *****          |               | Other     | H        | I        | D        | FL:MERGE 56f03ba2c 51a75c5a3  |          |   |
| 16 | 18774693 |          | 2050         | *****          |               | Other     | H        | I        | D        | FL:MERGE d3215455: d212f5f78  |          |   |
| 17 | 18774694 |          | 2051         | *****          |               | Other     | H        | I        | D        | FL:MERGE d09d8965: 1e9efe183  |          |   |
| 18 | 18774695 |          | 2124         | *****          |               | Other     | N        | I        | D        | FL:MERGE acc1d291 73972ef87   |          |   |
| 19 | 18774696 |          | 2125         | *****          |               | Other     | N        | I        | D        | FL:MERGE cd50cf94b 925b103d9  |          |   |
| 20 | 18774697 |          | 2126         | *****          |               | Other     | N        | I        | D        | FL:MERGE ee067cd2: 166018c8e  |          |   |
| 21 | 18774698 |          | 2127         | *****          |               | Other     | N        | I        | D        | FL:MERGE 59ec9f9ab 3bdcc39da  |          |   |
| 22 | 18774699 |          | 2128         | *****          |               | Other     | N        | I        | D        | FL:MERGE 3c070c8d5 6d88ec58c  |          |   |
| 23 | 18774700 |          | 2086         | *****          |               | Gmail     | N        | I        | D        | FL:MERGE e9366f5a9 dbdaf2b32  |          |   |
| 24 | 18774701 |          | 2087         | *****          |               | Other     | N        | I        | D        | FL:MERGE 5512b2de: 721c99bb8  |          |   |
| 25 | 18774702 |          | 2088         | *****          |               | Other     | N        | I        | D        | FL:MERGE e8cfadbdc 91bb4f3c0  |          |   |
| 26 | 18774703 |          | 2089         | *****          |               | Other     | N        | I        | D        | FL:MERGE 7a02ed93a a7d38617b  |          |   |
| 27 | 18774704 |          | 2001         | *****          |               | Other     | N        | I        | D        | FL:MERGE fb5c26176 8ef3da5bf  |          |   |
| 28 | 18774705 |          | 2002         | *****          |               | Other     | N        | I        | D        | FL:MERGE ffc70cacf4 6e434ccaf |          |   |
| 29 | 18774706 |          | 2003         | *****          |               | Other     | N        | I        | D        | FL:MERGE 819cf52eb 910503d02  |          |   |
| 30 | 18774707 |          | 2005         | *****          |               | Other     | N        | I        | D        | FL:MERGE 53d2d25ff 38108c3a0  |          |   |
| 31 | 18774708 |          | 2006         | *****          |               | Other     | N        | I        | D        | FL:MERGE 00040729c 4a300b7c2  |          |   |
| 32 | 18774709 |          | 2007         | *****          |               | Other     | N        | I        | D        | FL:MERGE d6674b6e: eb74566cc  |          |   |
| 33 | 18774710 |          | 2008         | *****          |               | Other     | N        | I        | D        | FL:MERGE d6f49b8e: 32d79faab  |          |   |
| 34 | 18774711 |          | 2009         | *****          |               | Other     | N        | I        | D        | FL:MERGE 4e0df8842 68bf3b9e   |          |   |
| 35 | 18774712 |          | 2011         | *****          |               | Other     | N        | I        | D        | FL:MERGE d03ad414: 0d7b3ed2   |          |   |
| 36 | 18774713 |          | 2012         | *****          |               | Other     | N        | I        | D        | FL:MERGE ebba7044: 9270f24bc  |          |   |
| 37 | 18774714 |          | 2013         | *****          |               | Other     | N        | I        | D        | FL:MERGE 33ddf52f9 5ea6e6b6   |          |   |
| 38 | 18774715 |          | 2014         | *****          |               | Other     | N        | I        | D        | FL:MERGE e5f97be3: 98bdba01   |          |   |
| 39 | 18774716 |          | 2015         | *****          |               | Other     | N        | I        | D        | FL:MERGE a497ebee: 19abfee7c  |          |   |

## Work with IT

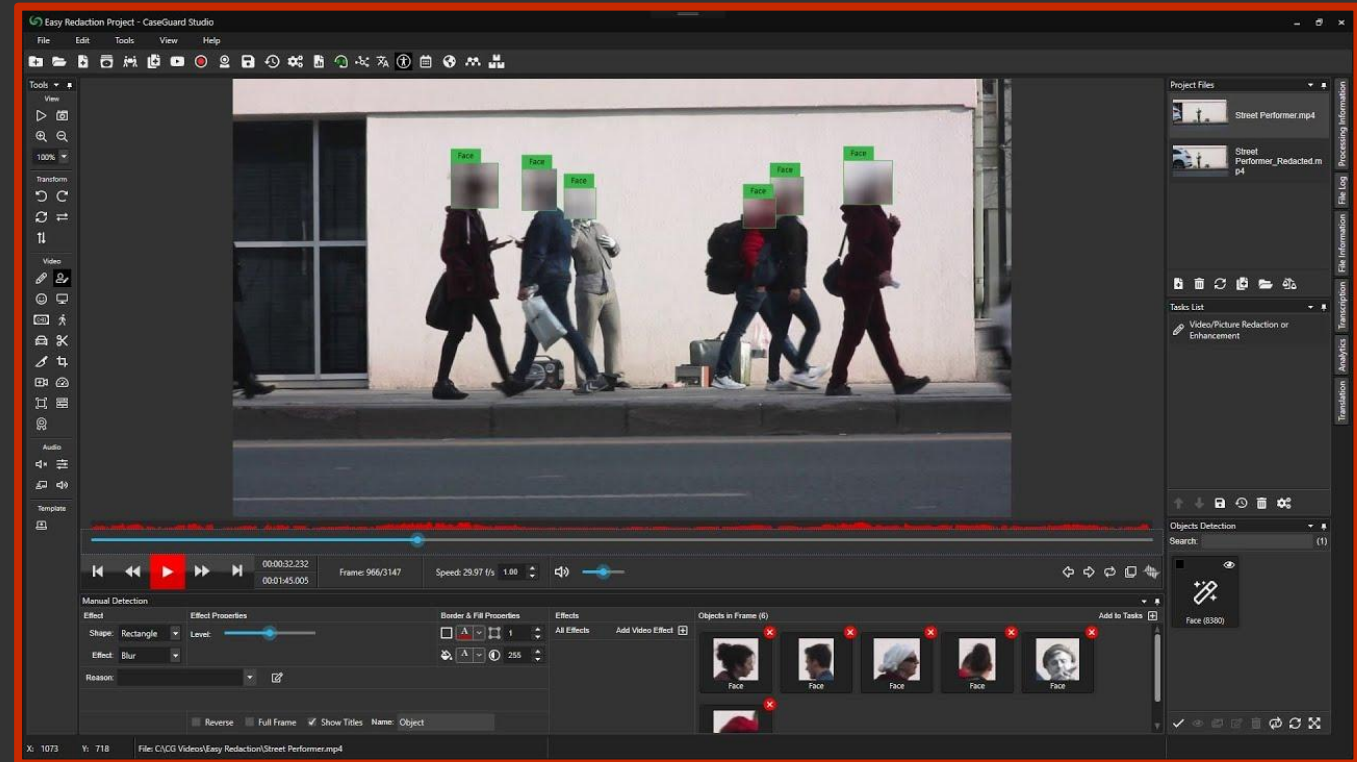
- Redact data fields
- Create reports that contain only public information



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# Video Files

- Video-editing software
- Make a copy
- Cut out or modify segments
  - Delete
  - Blur image
  - Change voice
- Save As (new file)
- Test to make sure you can't restore deleted segments



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# Audio Files



- Audio-editing software
- Make a copy
- Cut out or modify segments
  - Delete
  - Alter pitch of voice
  - Mute
- Save As (new file)
- Test to make sure you can't restore



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# Protocols for Responding

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# Notice of Denial

Redacting information is denying access to part of a record.

**Requires a notice of denial:**

- Description of Records
- Request is granted in part and denied in part
- Denied portion classified as...
- Per Utah Code...
- This decision may be appealed within 30 days to...
- CAO name & business address



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# Notice of Denial: How Detailed?

The following is a list of all of the records responsive to your request, along with the classifications and citations:

- Budget report for FY2019 to FY2021 showing money spent on attorney services (see line 32) (public)
- AG Office ISF Billing\_State Archives, spreadsheet with tabs for FY2019, FY2020, and FY2021 (public)
- 31 Monthly bill summaries (public)
- 35 Monthly bills which contain protected case information, per Utah Code 63G-2-305(17). These require redaction to be released.
- 36 Monthly invoices which contain protected financial account information, per Utah Code 63G-2-305(12). These require redaction to be released.

I am providing the first three items listed, free of charge, for a total of 33 documents.

If you would like the last two items, entailing 71 documents, please submit a payment for \$200.28 to the Utah Division of Archives & Records Service.

As previously discussed, it requires 20 minutes of administrative work to segregate protected information from the public information for these two records, for an estimated total of 12 hours. The cost to provide all 36 months of records for you (calculated using the lowest-paid person on staff with the software access and skill required to perform this duty) is \$200.28.

- Be as clear as possible
- List items & their classifications
- Specific citations
- This is an excerpt from an actual response



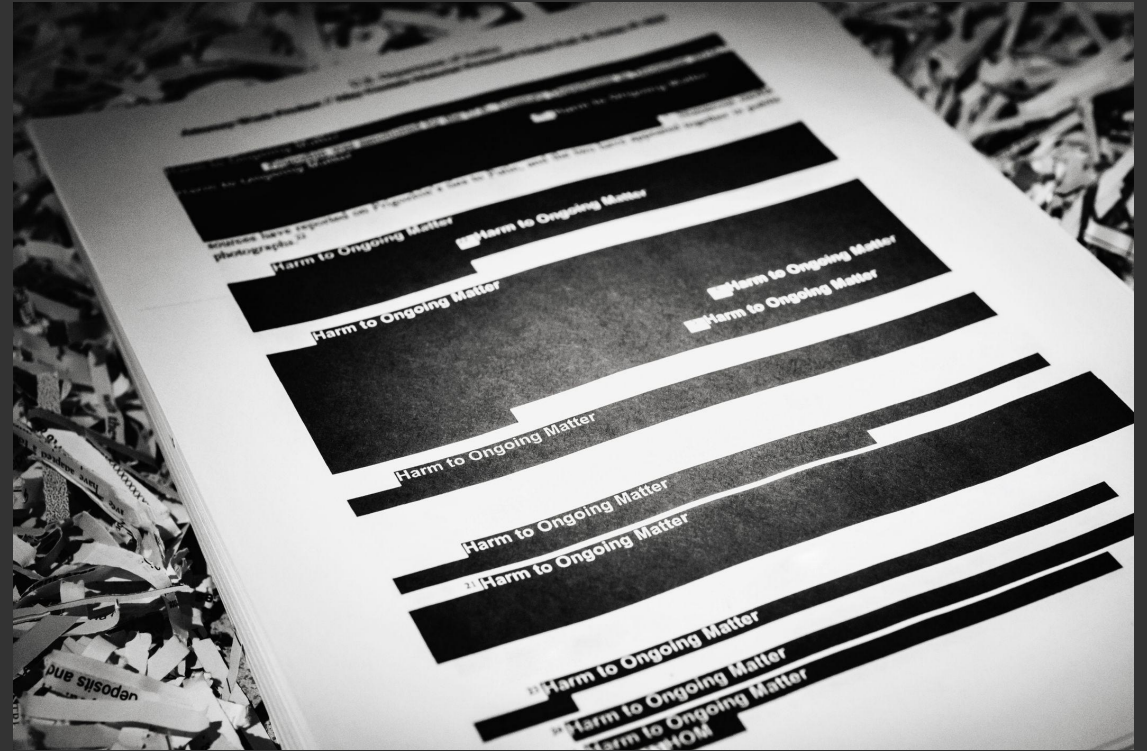
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# Unintelligible? Who decides?

---

- Redact a sample
- Look at it with fresh eyes
- What information does it contain?
- Could ask requester if they would find the records useful in this condition, and if they are willing to pay for the time required to redact them



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# Voice distortion to protect identity?

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- Is the person identifiable?
- Are you classifying their identity as non-public information?
- If so, then anything that could be used to reasonably identify the individual needs to be redacted
- Could include voice distortion



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# Records Subject to Another Law

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Should you still make redactions based on GRAMA?

- Yes. Take both laws into account as you classify the record
- Private info only released to specific people
- If conflict, then follow most specific



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# What if We Can't Redact?

---

- Not optional
- Ask yourself: Why are we creating this record? In this format?
- Reevaluate the practice
- If you create the records, you must manage them, including providing appropriate access
- Need redaction software, whether owned or contracted



Utah Code 63G-2-202(3)

“...The record that pertains to another subject **shall** be segregated...”



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# Attorney Needs to do the Redacting?

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- Internal decision
- Formula for calculating fee = Salary of lowest paid employee with ability to perform request
  - *"In the discretion of the custodian of records"*
  - Justifiable?



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Questions?



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# Expungement



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# Expunge means restricting access

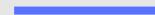
.



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## Utah Code 77-40-102(9)

‘Expunge’ means to seal or otherwise restrict access to the individual’s record held by an agency when the record includes a criminal investigation, detention, arrest, or conviction.





# Subject is responsible to distribute expungement order

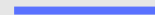


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## Utah Code 77-40-108

(1) An individual who receives an order of expungement... shall be responsible for delivering a copy ... to all affected criminal justice agencies...

(6) An order of expungement may not restrict an agency's use or dissemination of records .. until the agency has received a copy of the order.



# Court order governs records to be expunged.

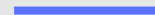


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## Utah Code 77-40-108

(4) An agency receiving an expungement order shall expunge the individual's identifying information contained in the records in the agency's possession relating to the incident for which expungement is ordered.

(5) Unless ordered by a court to do so... or in accordance with 77-40-109(2), a governmental entity or official may not divulge information or records that have been expunged.



BCI keeps index  
and maintains all  
expunged records.

BCI is authorized to  
share expunged  
records to certain  
entities.



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## Utah Code 77-40-109

examples:

- (i) Board of Pardons and Parole
- (ii) Peace Officer Standards and Training;
- (iii) federal authorities, only as required by federal law;
- (iv) the Department of Commerce.....



# Who can have access to an expunged record?



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## Utah Code 77-40-110

Records expunged under this chapter may be released to or viewed by the following individuals:

- (1) the petitioner...
  - (2) a law enforcement officer who was involved in the case, for use solely in the officer's defense in a civil action arising out of the officer's involvement with the petitioner in that particular case.
  - (3) parties to a civil action arising out of the expunged incident, providing the information is kept confidential and utilized only in the action.
-

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# Tips and Tricks for Managing Expunged Records



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# Managing Expunged Records

- Expunged records need to stay as complete and intact as possible because an expungement can be reversed.
- If you wish to manage them with the original grouping, make sure all expunged records are kept in a manner that access is completely restricted and no identifying information is available for those records.
- Make sure you can respond to records requests without indicating that the expunged records exist.

State of Utah  
Department of Public Safety  
Bureau of Criminal Identification  
CRIMINAL RECORDS  
SPECIAL EXPUNGEMENT CERTIFICATE

NAME: JOHNSON, BRUNDA LEE BOB 01-23-1960

PREVIOUSLY USED NAMES:  
(BRUNDA L. JOHNSON), (BRUNDA DURAN), (BRUNDA LEE JOHNSON), (BRUNDA LOVEDAY)

SID # 48004 FBI # 4050801

DATE OF ARREST 12/06/1990 DATE OF VIOLATION / OFFENSE 11/10/90

BOOKING / ARRESTING AGENCY BOE ELDER COUNTY SHERIFF

LAW ENFORCEMENT AGENCY BOE ELDER COUNTY SHERIFF

CHARGES:  
AMPHETAMINE POSSESS

COURT NAME BOE ELDER COUNTY JUSTICE COURT COURT CASE # UNKNOWN

COMMENTS:

Each Expungement Order must contain the above information

This document was researched and prepared by the undersigned representative of the Utah Bureau of Criminal Identification in accordance with Title 77 Chapter 40 of the Utah Code. BCI is unable to attest to the accuracy of the above information. Pursuant to Utah Code Ann. § 77-40-10(2)(b), dissemination of this document is with the court.

NOTED FOR REVIEW (SARAH) 03/30/2019

This certificate is valid for 90 days and must be received by the court within this time period.



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# Managing Expunged Records cont...

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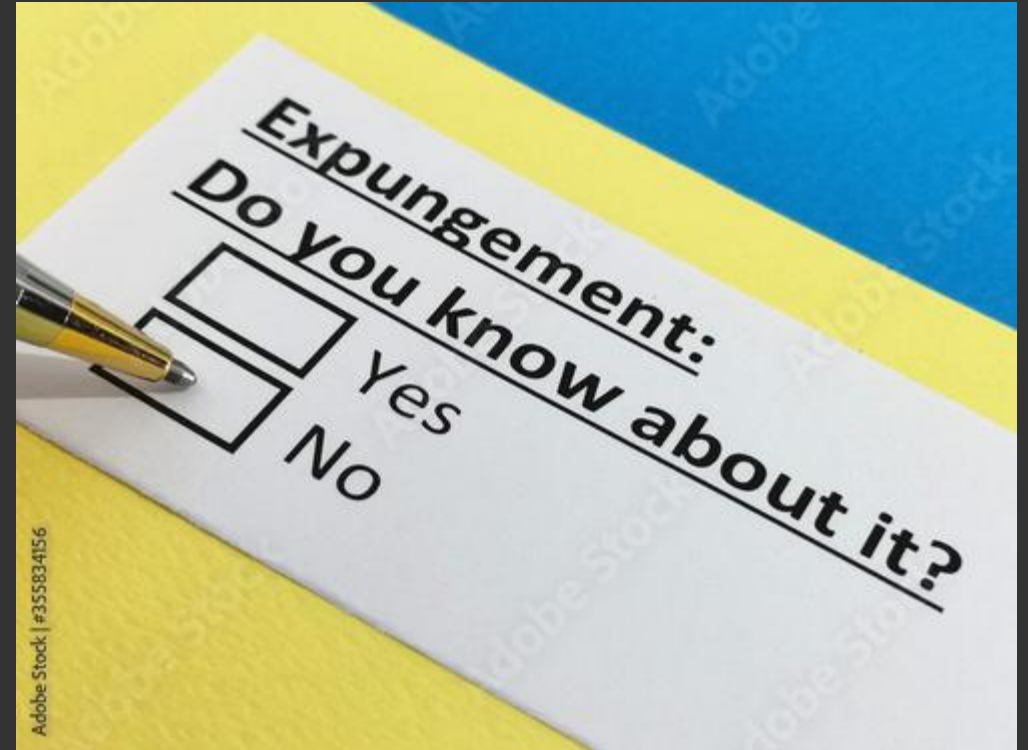
- If the expunged records are easier to manage as a separate group of records, then you may separate them.
- Make sure you are aware of the retention and access requirements before removing them from their original grouping.
- If you have a series-specific retention schedule for the regular (not expunged) records with State Archives, you may want to consider creating a separate series-specific retention schedule for the expunged records.



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# Retention of Expunged Records

- Expunged records still need to follow the retention schedule as if they were not expunged. It is just the access to them is far more restricted.
- If you do not know the retention of your records, you can find general retention schedules, as well as your agency's series-specific retention schedules on our website [archives.utah.gov](https://archives.utah.gov)



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# Retention of Related Records

- Information about the management of your expunged records needs to be kept for the lifetime of those records.
- For example, if you get an expungement order for a case,  
then it may be easier to keep it with the case file itself.
  - Case files have a retention range from 3 years to permanent so keeping the expungement order with the case file is the easiest way to manage them because of the variety of retention schedules that could apply.
- GRS-1713, Information Governance records.

Utah State Archives

AGENCY: Division of Archives and Records Service

SERIES: 19748

TITLE: Expungement requests

DATES: 1988

ARRANGEMENT: Chronological

ANNUAL ACCUMULATION: 0.10 cubic feet

DESCRIPTION: These records document requests made by state and local government agencies, or by persons, to expunge individual files from records that have been transferred into the official custody of the Division (Utah Code 77-40-108(4)(2020). This does not include records stored offsite at the Records Center, which are considered to be the custody of the owning agencies. It does include records posted or attached in the Public Notice Website or Open Records Portal.

RETENTION: Permanent. Retain for 75 year(s)

DISPOSITION: Transfer to Archives.

RETENTION AND DISPOSITION AUTHORIZATION: Retention and disposition for this series is authorized by Archives general schedule Information governance records, GRS-1713.

AUTHORIZED: 02-19-2019

FORMAT MANAGEMENT: Paper: Retain in Office permanently.  
Computer data files: Retain in Office permanently.

APPRAISAL: These records have administrative, and/or legal value(s). These requests document why the microform copy has been altered in accordance with Utah Code 77-40-108(4)(2017). These are to be retained the same as the appurtenant record.



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# Accessing Expunged Records

- The records officer/agency should always consult with their attorney before acknowledging the existence of, or allowing access to, expunged records.
- In general, a requester should not even know an expunged record exists. Once it is expunged, you should respond as though it does not exist, unless the requester is the court.
- Read the expungement order and see if it gives you any access exceptions.



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# The Process for Expunging Records

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## ○ Physical Records

- Files and/or “Loose” Records - put them in an envelope and seal the envelope closed. Tape the expungement order to the front and write the retention schedule and disposition date.
- Books and/or Bound Records - cover the pages with another paper or folder and secure closed with tape or staples (only on the added paper if possible).
- Make sure to remove it from the index!



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# The Process for Expunging Records

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## ○ Records on Microfilm

- Splicing - removing the images that have been expunged and reattaching the film.
- Covering - physically cover the images with black paper and tape.
- Scratching - an absolute last resort because it damages the record. If you still have the original paper records you can be more liberal with scratching your microfilm.
- Always remember to change the index as well!



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# The Process for Expunging Records

---

## ○ Electronic Records

- If possible, move expunged records to a secure folder, drive, server, etc., so access to them is limited.
- If you can't move the records, see if it's possible to remove the personal identifying information from the records (after making a copy to maintain an original)
- If you keep your records in a database, always talk with IT to determine the best way to move expunged records elsewhere or add security access to them.



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# Managing Expunged Records

- A Summary...

- Expungement is about access, so you need to make sure nobody can access the records (or even know they exist).
- Maintain expunged records (and related records) according to the original retention schedule.
- Expunged records need to stay as intact and original as possible because expungements can be reversed, or courts may need access to the original.
- **Always consult with your attorney if you have questions about your expunged records.**



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Questions?



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# Questions? Contact Us!

Avalon Snell

[avalonsnell@utah.gov](mailto:avalonsnell@utah.gov)

State:

DCCE

DNR

UDAF

USBE

Higher Ed.

DABC

Local:

Special Districts

LEAs

Transit Districts

Interlocal Districts

Quasi-Government

Renee Wilson

[reneewilson@utah.gov](mailto:reneewilson@utah.gov)

State:

Elected Offices

DOH/DHS

DWS

DEQ

GovOps

DPS

Nat'l Guard

SITLA

UDOT

Vets and Mil. Affairs

Heidi Steed

[hsteed@utah.gov](mailto:hsteed@utah.gov)

Local:

Municipalities

Counties

Law Enforcement

UHP

POST

Courts

Admin Office of

the Courts

Matthew Pierce

[mpierce@utah.gov](mailto:mpierce@utah.gov)

State:

Commerce

Corrections

Insurance

Labor Commission

Board of Pardons/Parole

Tax Commission

Public Service Commission

Financial Institutions

Rosemary Cundiff

[rcundiff@utah.gov](mailto:rcundiff@utah.gov)

GRAMA Ombudsman

Kendra Yates

[kendrayates@utah.gov](mailto:kendrayates@utah.gov)

Chief Records Officer



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